

Amend 2 Cal. Code Regs. to read:

18225.7. Made at the behest of.

(a) "Made at the behest of" means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of. Such arrangement must occur prior to the making of a communication described in Government Code ~~Section~~ section 82031.

[Decision 1] (b) Expenditures "made at the behest" of a candidate or committee include expenditures:

(1) Made by or through the candidate or committee, or

(2) Made by a person other than the candidate or committee, to fund a communication relating to one or more candidates or ballot measures "clearly identified" as defined at Title 2, California Code of Regs. section 18225(b)(1), which is created, produced or disseminated,

(A) After the candidate or committee has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

(B) After discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate or committee, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics.

~~(b)~~ (c) An expenditure is presumed to be made at the behest of a candidate or committee if it is:

(1) Based on information about the candidate's or committee's campaign needs or plans provided to the expending person by the candidate, committee, or agents thereof; or

(2) Made by or through any agent of the candidate or committee in the course of ~~their~~ the agent's involvement in the current campaign; or

[Decision 2] (3) For a communication relating to a clearly identified candidate or ballot measure when:

1 (A) The person making the expenditure retains the services of a person who provides
2 **[Decision 2a** or, within six months prior to the expenditure has provided,] the candidate or committee
3 supporting or opposing the ballot measure with professional services related to campaign strategy or
4 fundraising for that same campaign, or

5 (B) The communication replicates, reproduces, republishes or disseminates, in whole or in
6 substantial part, a communication designed, produced, paid for or distributed by the candidate or
7 committee.

8 ~~(e)~~(d) An expenditure is not made at the behest of a candidate or committee merely when:

9 (1) A person interviews a candidate on issues affecting the ~~expending person, provided that~~
10 ~~prior to making a subsequent expenditure, that person has not communicated with the candidate or the~~
11 ~~candidate's agents concerning the expenditure; person making the expenditure, or~~

12 (2) The ~~expending person~~ making the expenditure has obtained a photograph, biography,
13 position paper, press release, or similar material from the candidate or the candidate's agents-, or

14 (3) The person making the expenditure has made a contribution to the candidate or committee
15 in a past election, or

16 (4) The person making the expenditure is responding to a public request for support by a
17 candidate or committee, provided that there is no discussion with the candidate or committee prior to
18 the expenditure relating to [the candidate's or committee's campaign strategy, or to] details of the
19 expenditure, or

20 (5) The person making the expenditure has invited the candidate or committee to make an
21 appearance before the person's members, employees, shareholders, or the families thereof, provided that
22 there is no discussion with the candidate or committee prior to the expenditure relating to [the candidate's or
23 committee's campaign strategy, or to] details of the expenditure, or

24 (6) A person informs a candidate or committee that the person intends to make, or has made,
25 an expenditure, provided that there is no exchange of information, not otherwise available to the public,
26 relating to [the candidate's or committee's campaign strategy, or to] details of the expenditure, or

27 (7) An expenditure is made at the request or suggestion of the candidate or committee for the

1 benefit of another candidate or committee.

2 (e) Notwithstanding any other provision of this section, an exchange between two or more
3 committees, of information not constituting a “payment” under Government Code section 82044, shall
4 not be considered an expenditure “made at the behest of” those committees.

5 (f) Throughout this section the terms “candidate” and “committee” include their agents, when
6 the agent is acting within the course and scope of his or her agency. The term “expenditure” refers to a
7 payment defined as an “expenditure” by Government Code section 82025 and regulation 18225. A
8 determination that an expenditure has been “made at the behest of” a candidate or committee does not
9 establish that the expenditure is a “contribution” as defined by Government Code section 82015 or Title
10 2, California Code of Regs. section 18215. However, expenditures governed by Title 2, California
11 Code of Regs. section 18550.1 may be treated as contributions pursuant to the provisions of that
12 section.

13 NOTE: Authority cited: Section 83112, Government Code.

14 Reference: Sections 82015, 82025 and 82031, Government Code.

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